

Amendments to Senate Bill No. 92  
1st Reading Copy

Requested by Senator Vicki Cocchiarella

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo  
January 15, 2007 (12:15pm)

Explanation - requested by Mortgage Brokers group - Kristi Blazer

1. Title, line 10.

**Following:** "REQUIREMENTS;"**Insert:** "CLARIFYING WHO PAYS CERTAIN FEES;"

2. Title, line 14.

**Following:** "32-9-124,"**Insert:** "32-9-125,"

3. Page 9, line 19.

**Insert:** "Section 12. Section 32-9-125, MCA, is amended to read:**"32-9-125. Trust accounts -- ~~fees other than bona fide third-party fees.~~** (1) Every mortgage broker doing business in this state shall:

(a) maintain a trust account at a financial institution located in this state whose deposits or shares are insured, and the trust account funds may not be commingled with any other funds of the mortgage broker;

(b) deposit into the trust account any bona fide third-party fee that the mortgage broker receives ~~unless the borrower pays the bona fide third party directly;~~ and(c) pay third-party fees to a bona fide third party from the mortgage broker's trust account unless the borrower, seller, or another person involved in the transaction pays the bona fide third party directly.

(2) A mortgage broker may not charge or receive, directly or indirectly, fees for assisting a borrower in obtaining a mortgage until all of the services that the mortgage broker has agreed to perform for the borrower are completed. A mortgage broker may not charge a residential loan application fee in excess of the amount allowed by federal law. Prior to completion of services, the fees provided for in subsection (3) incurred by a bona fide third party in assisting the borrower to obtain a mortgage must be paid.

(3) The following fees either must be paid ~~directly~~ by the borrower, the seller, or another person involved in the transaction directly to the bona fide third party providing the

services or must be ~~deposited~~ paid by the borrower, if applicable, ~~into the mortgage broker's trust account~~ the seller, or another person involved in the transaction to the mortgage broker for payment of services performed by the bona fide third party:

- (a) credit report fees;
- (b) notary fees;
- (c) title search, appraisal, or survey fees;
- (d) rate-lock fees not exceeding 3% of the mortgage loan amount; and
- (e) fees paid directly by the borrower, the seller, or another person involved in the transaction to a state or federal government agency or instrumentality for purposes of processing a mortgage application relating to a government-sponsored or guaranteed mortgage program.

(4) The department shall by rule define the meaning of "another person involved in the transaction".  
{Internal References to 32-9-125: None.}"

**Renumber:** subsequent sections

4. Page 9, line 24.

**Following:** "provision"

**Insert:** "of"

Explanation - amendment (4) is clerical.

5. Page 13, line 11.

**Strike:** "A"

**Insert:** "In addition to the penalties in subsection (1), a"

6. Page 13, line 18.

**Following:** "10,"

**Strike:** "12"

**Insert:** "13"

**Following:** "and"

**Strike:** "13"

**Insert:** "14"

7. Page 13, line 20.

**Following:** "10,"

**Strike:** "12"

**Insert:** "13"

**Following:** "and"

**Strike:** "13"

**Insert:** "14"

- END -